

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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HERBERT F. WARRENDER,

Plaintiff,

-against-

ORDER
09 CV 2697 (KAM)(LB)

MICHAEL BORECKY, C. BROOKS,
RAUL CAMPOS, JOHN SAINT-PREUX,
IGNATIUS HALL, UNITED STATES,

Defendants.

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BLOOM, United States Magistrate Judge:

By letter dated May 5, 2010, defendants request a stay of defendant Raul Campos's response to the complaint. (Document 30.) The Court previously granted a stay as to defendants Borecky and Brooks, pending the identification and service of the John Doe defendants. (See document 24.) On December 28, 2009, defendants provided the names and service addresses of three individuals: Raul Campos, John Saint-Preux, and Ignatius Hall, (document 22), and on December 30, 2009, the Court directed the United States Marshals Service ("USMS") to serve these defendants. Since then, only defendant Campos has been served. My law clerk recently contacted the USMS regarding the status of service on the remaining defendants. He was informed that defendant Saint-Preux failed to return the USMS acknowledgment of service form, and agents were dispatched to the Metropolitan Detention Center ("MDC") on multiple occasions to make personal service on defendant John Saint-Preux. On each occasion, the agent was told by personnel at MDC (including members of the facility's legal department) to return on a different date and time when defendant Saint-Preux was on duty. Defendant Saint-Preux was purportedly not present on each of the USMS return visits. This is an unnecessary and unacceptable waste of

the Marshals' resources.¹ The U.S. Attorney's Office should advise their client and the Warden at MDC that this will not be tolerated. Defendants request for a stay is denied. Defendants shall respond to the complaint by June 14, 2010.

SO ORDERED.

/S/

LOIS BLOOM
United States Magistrate Judge

Dated: May 7, 2010
Brooklyn, New York

¹ Under Fed. R. Civ. P. 4(d), an individual "that is subject to service . . . has a duty to avoid unnecessary expenses of serving the summons." An individual who fails to return the acknowledgment of service form may be required to pay any expenses incurred in serving a summons and complaint by other means.